

CITY OF NEWTON, MASSACHUSETTS

PURCHASING DEPARTMENT

purchasing@newtonma.gov

Fax (617) 796-1227

September 28, 2012

ADDENDUM #2

INVITATION FOR BID #13-23

SEDIMENT REMOVAL AND MAINTENANCE FOR CITY HALL PONDS

THIS ADDENDUM IS TO: **Answer the Following Questions:**

Q1. What are the flows into the pond from each culvert?

A1. Flows vary significantly depending on the season and weather conditions.

Q2. What offsite work is required (page 135 of specs.)?

A2. "Work Outside the Project Site" as noted in the Summary of Work (page 135) refers to work that is not specifically located within the designated project area, but is necessary for the completion of the project. This work includes, but is not limited to: off-site transportation and disposal of the excavated sediments, installation of a silt curtain at Bulloughs Pond, installation of silt sacks in the nearby catch basins, and periodic street sweeping.

Q3. What are the inside dimensions of the 2 existing culverts to be cleaned? It was said at the pre bid meeting that a bobcat would fit inside, can that be verified?

A3. The culvert dimensions were provided in Bid Addendum #1.

Q4. What if any local permits are required for this project (page 163 of specs.)?

A4. Local permits refer to those the Contractor would obtain through the City of Newton. A sidewalk crossing permit is the only local permit anticipated.

Q5. Can Portland cement be added to dredged sediment to assist in solidifying material for transport?

A5. No.

Q6. The project specifications state that finished grade tolerance is 0.1 feet of proposed grades. The material to be excavated will most likely not hold any shape due to moisture content and particle size. Is it your intention to achieve those finished grades within the stated tolerance? If so are we to assume suitable material may be required to be imported from offsite sources to achieve said grades?

A6. There is no specific tolerance requirement within Section 02210 – Sediment Excavation.

All other terms and conditions of this bid remain unchanged.

PLEASE ENSURE THAT YOU ACKNOWLEDGE THIS ADDENDUM ON YOUR BID FORM.

Thank you.



Nicholas Read

Interim Chief Procurement Officer

CITY OF NEWTON, MASSACHUSETTS

PURCHASING DEPARTMENT

purchasing@newtonma.gov

Fax (617) 796-1227

September 26, 2012

ADDENDUM #1

INVITATION FOR BID #13-23

SEDIMENT REMOVAL AND MAINTENANCE FOR CITY HALL PONDS

THIS ADDENDUM IS TO:

- A. Provide an Updated Bid Form;**
- B. Include Newton's Conservation Commission Order of Conditions;**
- C. Address items from the Pre-Bid Meeting; and**
- D. Modify specific sections and subsections of the Project Specifications:**

Maria Rose, the City's Environmental Engineer, noted that this project was delayed by a year and the survey completed as part of the design work is two years old. Sediment removal quantities may vary from those estimated in the bid forms. It was also noted that the sediment disposal bid item is to be bid lump sum. After some discussion, it was decided that this bid item will be changed from lump sum to unit price with the unit being cubic yards. An updated bid form has been provided as part of this addendum and the following changes have been made to Part 2 – General Requirements and Project Specifications in the Project Manual.

Section 02000 – General Requirements

DELETE Section 1.03 E.1. and **REPLACE** with the following:

1. The Contractor shall prepare a Stormwater Pollution Prevention Plan for this project which will meet the requirements of the EPA's National Pollution Discharge Elimination System (NPDES) Construction General Permit (CGP) and submit to the Owner for review. Contractors shall familiarize themselves and comply with the US EPA's CGP and file the necessary Notice of Intent and Notice of Termination with the EPA. Contractor shall be responsible for all work required under this permit and for permit compliance. Contractor shall attach all required documents to the SWPPP and shall complete and update the SWPPP as necessary throughout the project and maintain records for the required period after the project is complete.

Section 02050 – Erosion and Sedimentation Controls

ADD a new Section 1.01 B.5. as follows:

5. Preparation and maintenance of a Construction Stormwater Pollution Prevention Plan (SWPPP) and filing of a Notice of Intent and Notice of Termination with EPA.

DELETE Section 1.01 D. and **REPLACE** with the following:

D. The Contractor and all applicable Subcontractors shall fully comply with the current NPDES Construction General Permit for Stormwater Discharges Associated with Construction Activities (CGP), as amended. The Contractor must prepare a Construction SWPPP and file the required Notice of Intent and Notice of Termination with the EPA. The SWPPP is a necessary component in complying with the CGP from the EPA which authorizes stormwater discharges from construction activities. Contractor shall be responsible for all work required under this permit and for permit compliance. Contractor shall attach all required documents to the SWPPP and shall complete and update the SWPPP as necessary throughout the project and maintain records for the required period after the project is complete.

ADD a new Section 1.04 D. as follows:

- D. Contractor shall submit a copy of the SWPPP to the Owner for its review and records.

DELETE Section 3.02 A. and **REPLACE** with the following:

- A. To obtain coverage under the CGP, the Contractor must prepare a Construction SWPPP for the project and file a Notice of Intent (NOI) with EPA. A copy of all NOIs must be submitted to the Owner.

DELETE Section 4.01 F. and **REPLACE** with the following:

F. Erosion Control: This work will include all work associated with the preparation and maintenance of the Construction SWPPP for the project, with filing for coverage under the permit and terminating coverage at the conclusion of the project, and other tasks, including all paperwork, inspections, maintenance of controls, covers for stockpile areas, addition of new controls as needed, sweeping, temporary seeding and mulching, disposal of collected sediments from sedimentation and erosion controls, and all other work related to this permit and erosion control at the site for all work which is not covered under another pay item in this Section.

The work will be measured for payment as follows:

1. Upon preparation of the SWPPP, filing the NOI for coverage under the CGP, mobilization, and installation of all erosion and sediment controls at the site, the Owner will inspect the work and if the controls are performing satisfactorily, 25% of the lump sum bid price may be approved for payment.

2. Upon completion of the dredging and commencement of the restoration work onsite with the approval of the Owner, 75% of the lump sum bid price, less any prior payment may be approved for payment.
3. Upon final stabilization of the site and project completion with inspection and approval by the Owner, the remaining portion of the lump sum bid price, less any prior payments, may be approved for payment.

Section 02260 – Disposal of Excavated Sediments

DELETE Section 4.01 A. and **REPLACE** with the following:

- A. The method of measurement for Disposal of Excavated Sediments at Approved Landfill shall be the same number of cubic yards as approved for payment under Section 02210 for the Pay Item “Sediment Excavation”.

DELETE Section 4.02 A. and **REPLACE** with the following:

- A. Disposal of excavated sediments at the approved landfill will be paid for at the contract unit price per cubic yard for “Disposal of Excavated Sediments at Approved Landfill” for the approved volume of sediments removed. This price shall include all testing, tipping fees, equipment, fuel, tools, transportation, and labor incidental to completion and meeting all other requirements of the landfill.

DELETE Section 4.03 and **REPLACE with the following:**

4.03 PAYMENT ITEMS:

<u>Pay Item</u>	<u>Description</u>	<u>Pay Unit</u>
02260-1	Disposal of Excavated Sediment At Approved Landfill	Cubic Yard

QUESTIONS:

- Q1. What are the sizes of the two culverts that discharge to the pond?
A1. The Hammond Brook culvert is 15 feet (ft) wide by 4 ft high. The Cold Springs culvert is 11 ft 8 inches (in.) wide by 5 ft 6 in. high. Additional information on the construction of these culverts may be obtained from the City’s Engineering Division located in City Hall, Room 104.
- Q2. When was the last time the ponds were dredged?
A2. In the late fall of 1992 with restoration completed in winter / spring 1993.
- Q3. When was the sediment testing conducted?
A3. In 2008 fifteen samples were collected (five from each of the three lobes of the pond) and tested for all the analytes necessary in accordance with the Massachusetts Department of Environmental Protection (MaDEP) COMM-94-007 Policy. The data results, as well as a map depicting the sample locations, are provided in Appendix B at the end of the Bid Manual.

- Q4. What are the requirements for restoration of the banks?
A4. Please refer to the Planting Table detail on Sheet 7. It was also noted that the disturbed access routes (currently lawn) shall be restored using sod.
- Q5. What is the deadline to submit any further questions?
A5. Questions must be submitted in writing to the Purchasing Department no later than noon on Sept. 26th, 2012.

At the conclusion of the pre-bid meeting, Ms. Rose noted that the Order of Conditions for the MaDEP and Conservation Commission Notice of Intent was inadvertently not included in Appendix A – Permits of the Bid Manual. It is now provided as part of this Addendum.

All other terms and conditions of this bid remain unchanged.

PLEASE ENSURE THAT YOU ACKNOWLEDGE THIS ADDENDUM ON YOUR BID FORM.

Thank you.

A handwritten signature in black ink that reads "Nicholas Read". The signature is written in a cursive, flowing style.

Nicholas Read
Interim Chief Procurement Officer

Item No.	Estimated Quantity*	Brief Description Unit or Lump Sum Price Bid in Both Words and Figures	Total in Figures
BASE BID (SHEETS C-1 to C-4)			
1		Control of Work:	
1	1	Control of Work; allowance up to \$10,000 Allowance up to ten thousand dollars (dollars) And zero cents (cents) (\$10,000)	\$10,000
2		Mobilization:	
2	1	Mobilization; per lump sum (dollars) and (cents) (\$)	\$
3		Erosion and Sedimentation Controls:	
3a	260	Sediment Control Tubes; per linear foot (dollars) and (cents) (\$)	\$
3b	400	Silt Fence; per linear foot (dollars) and (cents) (\$)	\$
3c	3600	Geotextile; per square foot (dollars) and (cents) (\$)	\$

3d	3	Catch Basin Inlet Protection; per each	\$
		(dollars)	
		and	
		(cents)	
		(\$)	
3e	150	Turbidity curtain, per linear foot	\$
		(dollars)	
		and	
		(cents)	
		(\$)	
3f	1	Erosion Control; per lump sum	\$
		(dollars)	
		and	
		(cents)	
		(\$)	
4		Construction Access:	
4a	1	Construction Access, per lump sum	\$
		(dollars)	
		and	
		(cents)	
		(\$)	
4b	1850	Temporary Pedestrian Safety Fence, per linear foot	\$
		(dollars)	
		and	
		(cents)	
4c	1	Uniformed Traffic Officer, allowance up to \$5,000	\$5,000
		Allowance up to five thousand dollars	
		(dollars)	
		And zero cents	
		(cents)	

5		Control and Diversion of Water:	
5	1	Control and Diversion of Water, per lump sum	\$ _____

		(dollars)	
		and	

		(cents)	
		(\$ _____)	
6		Sediment Excavation:	
6	3,800	Sediment Excavation, per cubic yard	\$ _____

		(dollars)	
		and	

		(cents)	
		(\$ _____)	
7		Disposal of Excavated Sediments at Approved Landfill:	
7	3,800	Disposal of Excavated Sediments at Approved Landfill, per cubic yard	\$ _____

		(dollars)	
		and	

		(cents)	
		(\$ _____)	
8		Restoration of Disturbed Areas:	
8	1	Restoration of Disturbed Areas, per lump sum	\$ _____

		(dollars)	
		and	

		(cents)	
		(\$ _____)	

END OF SECTION



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

April 22, 2011

Maria Rose, Environmental Engineer
Department of Public Works
1000 Commonwealth Avenue
Newton, MA 02459

RE: Order of Conditions – Dredging of City Hall Ponds,
DEP NE #239-627

Dear Ms. Rose;

Enclosed please find an Order of Conditions issued pursuant to the Wetlands Protection Act, General Laws, Chapter 131, Section 40 and pursuant to the Newton Floodplain/Watershed Protection Ordinance, Section 22-22, for the above-referenced project.

Following the 10-business day appeal period that begins with the date of Issue shown on page 1 (and 11) of the Order, you must arrange to have the original Order recorded at the Middlesex Registry of Deeds. The Order is not valid until and unless it is properly recorded. No work on the project may begin until

- 1) the Conservation Commission and Inspectional Services Department receive from you the tear-off form, properly filled out at the Registry of Deeds in Cambridge, which provides proof to the Commission that the Order was recorded as required (General Condition 8 of the Order),
- 2) the DEP sign has been erected (General Condition 9), and
- 3) you have given the Commission 48 hr notice to inspect the installation of erosion & sediment control measures and received approval to proceed

Upon completion of the project, you must submit a "Request for a Certificate of Compliance" to the Conservation Commission stating that the work has been satisfactorily completed. In accordance with the Wetlands Protection Act Regulations (310 CMR 10.05(9)(d)), your request for a Certificate of Compliance must be presented in the form noted in Condition #26. Your Certificate of Compliance must be recorded and proof of recording sent to the Conservation Commission as required by the Wetlands Protection Act Regulations (310 CMR 10.05(9)(F)).

Very truly yours,

For the Commission,

Anne Phelps

Conservation Commission
1000 Commonwealth Avenue, Newton, Massachusetts 02459
Email: aphelps@newtonma.gov

Preserving the Past  Planning for the Future

Sr. Environmental Planner

Enclosure

CC: Wetlands Division, DEP - NERO, 205B Lowell St., Wilmington, MA 01887
Frank Nichols, Special Projects Engineer - DPW
John Lojek, Commissioner of Inspectional Services
Jennifer R. Burke, GSA Geoenvironmental, Inc., One Financial Plaza, 1350 Main St. Suite 1400, Springfield,
MA 01103

conditions\1000 Commonwealth Av City Hall Ponds cov

FAWP5\DOCS\CONSERVA\WETLANDS\CONDITION\0-CC



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
239-627
MassDEP File #
eDEP Transaction #
City/Town

A. General Information

Please note:
this form has
been modified
with added
space to
accommodate
the Registry
of Deeds
Requirements

Important:
When filling
out forms on
the
computer,
use only the
tab key to
move your
cursor - do
not use the
return key.



1. From: Newton
Conservation Commission
2. This issuance is for
(check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions
3. To: Applicant:
- Lou Taverna
a. First Name b. Last Name
- City of Newton DPW
c. Organization
- 1000 Commonwealth Avenue
d. Mailing Address
- Newton MA 02459
e. City/Town f. State g. Zip Code
4. Property Owner (if different from applicant):
- SAME
a. First Name b. Last Name
- c. Organization
- d. Mailing Address
- e. City/Town f. State g. Zip Code
5. Project Location:
- 1000 Commonwealth Avenue Newton
a. Street Address b. City/Town
- 64001 0001
c. Assessors Map/Plat Number d. Parcel/Lot Number
- Latitude and Longitude, if known: d m s d m s
d. Latitude e. Longitude



Massachusetts Department of Environmental Protection
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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
Middlesex South
a. County b. Certificate Number (if registered land)
- c. Book d. Page
7. Dates: 3-8-2011 3-24-2011 4-25-2011
a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
Sediment Removal and Maintenance of City Hall Ponds Newton, MA (sheet 1-7)
a. Plan Title
GZA GeoEnvironmental, Inc. Jennifer R. Burke, P.E.
b. Prepared By c. Signed and Stamped by
4-8-11 1"=30'
d. Final Revision Date e. Scale
- f. Additional Plan or Document Title g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. ☒ Public Water Supply b. ☐ Land Containing Shellfish c. ☒ Prevention of Pollution
d. ☒ Private Water Supply e. ☒ Fisheries f. ☒ Protection of Wildlife Habitat
g. ☒ Groundwater Supply h. ☒ Storm Damage Prevention i. ☒ Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



Massachusetts Department of Environmental Protection
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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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B. Findings (cont.)

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☒ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 0
a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input checked="" type="checkbox"/> Bank	<u>45</u> a. linear feet	<u>45 temporary</u> b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input checked="" type="checkbox"/> Land Under Waterbodies and Waterways	<u>39,200</u> a. square feet <u>3,800</u> e. c/y dredged	<u>39,200</u> b. square feet <u>3,800</u> f. c/y dredged	c. square feet	d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area		b. total sq. feet		
Sq ft within 100 ft		d. square feet		f. square feet
Sq ft between 100-200 ft		h. square feet		i. square feet



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Provided by MassDEP:
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B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or Inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		



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B. Findings (cont.)

* #22. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

22. ☐ Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

23. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on _____ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.



Massachusetts Department of Environmental Protection
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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,
"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number 239-627 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order (the "Project") is (1) ☒ is not (2) ☐ subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
 - iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
 - v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

SEE ATTACHED.

Order of Conditions/B – Findings – Final Approved Plans:

The Commission finds that proposed work to dredge City Hall Ponds, affecting approximately 0.9 acres, and removing an estimated 3,800 cu yds of accumulated sediments (and all rooted vegetation). Forty-five feet of constructed stone bank will be removed temporarily and restored at the end of the project. Vegetation will be removed from the buffer zone (sloped) and near the top of bank and restored at the end of the project.

Plan of Record is entitled: "Sediment Removal and Maintenance of City Hall Ponds Newton, MA (sheet 1-7)," prepared by GZA GeoEnvironmental, Inc., stamped by Jennifer R. Burke, P.E., dated 3-8-11, revised 3-23-11, revised 4-8-11, scale 1"=30'.

The referenced plans are on file with the Conservation Commission & Engineering Departments.

Order of Conditions/B – Findings - Newton Standard Conditions

20. Prior to the commencement of work on the project site, appropriate erosion controls shall be erected between the wetland resource area and the construction area in order to protect the wetland resource area and confine refuse and other materials within the construction area. The Conservation Commission Office shall be notified at 617-796-1134, that the erosion controls have been erected and are ready for inspection. Work may not begin until the erosion control have been inspected and approved.

21. All soils must be contained on the site during the period of construction until stabilization can occur. City streets shall be kept clean and catch basins in the immediate area shall be protected from eroding soils. Containment and protection measures shall include, but are not limited to, a row of staked hay bales across the street frontage of the property except for a driveway opening; a paved driveway or a driveway consisting of crushed stone or other material which will catch loose soils and prevent their deposition on the city streets; wheel washing stations; weighted hay bales surrounding catch basins; catch basins fitted with silt bags or catch basin grates wrapped with filter fabric and cleaned on a regular basis; and any other measures deemed necessary to keep the city streets and catch basins clean.

22. The foregoing conditions notwithstanding, the Applicant shall see that throughout the construction period, all measures necessary to prevent any damage to the wetland resource area are taken and should any damage occur during the course of the work on the premises, the Applicant shall be responsible for and bear the full cost of restoration of the wetland to the satisfaction of the Conservation Commission and the Engineering Department.

23. During the construction period and prior to issuance of a Certificate of Compliance, members and agents of the Conservation Commission shall have the right to inspect the Applicant's project work to evaluate compliance with the herein cited PLANS and with these conditions.

24. This document and the approved plans shall be included in all construction contracts and subcontracts for the proposed work and shall supersede any conflicting contract requirements. It shall be kept on file at the job site at all times during construction.
25. All roof drainage from new construction shall be directed into an infiltration facility sized and designed to accommodate such drainage. The City Engineer shall review and approve the proposed design prior to the commencement of construction.
26. Any excess spoil material which is to remain on Applicant's premises and all areas of disturbed soil shall be left stabilized with mulch, grass or other plantings and protected against erosion and sedimentation. All materials not to remain on Applicant's premises shall be removed from said premises and disposed in a legal manner.
27. Upon completion of this project, the Applicant shall submit the following to the Newton Conservation Commission to receive a Certificate of Compliance in accordance with Condition #12:
 - a. A letter from the Applicant requesting a Certificate of Compliance and referencing the DEP File number.
 - b. A written statement from a Professional Engineer registered in Massachusetts certifying that the work has been completed in substantial compliance with this Order of Conditions and the approved plans referenced herein (or approved revisions). If the completed work differs from that in the approved plans and conditions, the report must specify how the project differs.
 - c. An as-built topographic plan signed and stamped by a professional land surveyor registered in Massachusetts to complete the public record. This plan will include as-built elevations of all drainage structures constructed within 100 feet of any wetland, distances to all structures and elevations within 100 feet of wetlands.
 - d. A letter from a qualified wetland scientist certifying compliance with state regulations is also required for all wetland replication or restoration areas. Wetland replication areas shall be in-kind replication, i.e., forested to forested or shrub to shrub or meadow to meadow, etc., and be built to function in the same way that the filled area functioned. Replication areas shall be monitored through two growing seasons to achieve the standards required.
28. For site re-stabilization, mitigation plantings, wetland replication, or restoration:
 - a. Prior to the issuance of a building permit or a Certificate of Compliance, applicant may post security, payable as check or money order, to the City of Newton, in the amount to be set by the Conservation Commission, to hold as surety for satisfactory completion of site re-stabilization, mitigation plantings, resource enhancement, wetland replication or wetland restoration, as applicable, as set forth under this Order.

b. If the Commission finds that the applicant has failed to satisfactorily complete the above work as required by the Order of Conditions, the Conservation Commission shall have the option, but not the obligation to (i) use the funds to complete the work; and/or (ii) hire its own landscaper, wetland scientist, and other consultants or contractors as deemed necessary by the Commission in order to comply with the conditions set forth under this Order. Applicant hereby agrees to allow access to the property by such consultants or contractors in such event.

29. Prior to the commencement of construction, applicant shall have in hand all other City permits, including, but not limited to, Building, Street Opening, Sidewalk Crossing and Utility Connection permits. Should the approved plans change as a result of the issuance of other permits, the Commission shall be notified and a new plan presented for review prior to commencement of construction.

30. The storage of materials and sediment in the floodplain is prohibited. All dumpsters, piles of lumber, pipe and other materials shall take place outside of the floodplain. All stockpiled soils shall be located outside of the floodplain and appropriate erosion controls must be applied to ensure that sediments do not erode or blow into the wetland resource area.

31. No Certificate of Occupancy shall be approved by Conservation unless a Certificate of Compliance has been issued or the request has received the approval of the Sr. Environmental Planner.

Newton Special Conditions:

32. There shall be no use of hay bales (instead use 24" filter tubes filled w/compost or other erosion and sediment control barrier approved by Environmental Planner).
33. Applicant shall minimize the footprint of the access-way to reduce destruction of grass – it will be difficult to re-stabilize w/the slope, number of geese present, and the amount of water from wet sediments.
34. Applicant shall consider doing the project in summer dry months (mid-July-mid-Sep) to provide time before winter to re-stabilize lawn area if seed is used.
35. Applicant shall replant the edge/bank with shrubs and trees and mulch within 2 wks after dredging to help filter run-off from grass (which accumulates lots of dog and goose waste).
36. As work begins in third pond, build (or leave in place) upstream coffer dams, in order to slow flow from heavy rainfall, should it occur.
37. Applicant shall use filter-fabric as lining for sump areas from which stream flow is pumped to by-pass work areas.
38. The site manager shall designate an erosion and sediment control manager with authority to stop work to correct deficiencies, supply 24-hr contact information for the erosion and sediment control manager to the Environmental Planner, and contact conservation within 24 hrs of any failure of the erosion and sediment control.

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39. There shall be no re-fuelling of equipment or vehicles within 100 ft of the bank.
40. Applicant may need a goose exclusion fence or sod to re-vegetate lawn area -- a more detailed restoration plan shall be supplied prior to the start of work.

**CONDITIONS WHICH WILL NOT EXPIRE WITH THE ISSUANCE OF A
CERTIFICATE OF COMPLIANCE, BUT WILL CONTINUE IN PERPETUITY:**

* * * * *

Inspectional Services: *Prior to the issuance of a Building Permit*, please be sure the applicant has complied with Conditions ## 9, 17, 20, 21, 28, _____.

conditions\Commonwealth Av #1000 City Hall Ponds OOC

9-C



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☐ Yes ☒ No
2. The _____ hereby finds (check one that applies):
Conservation Commission
 - a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw	2. Citation
---------------------------------	-------------

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.
 - b. ☐ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

1. Municipal Ordinance or Bylaw	2. Citation
---------------------------------	-------------
3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.
The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):



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E. Signatures

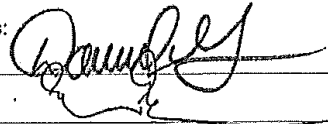
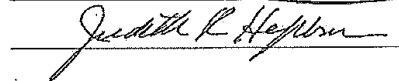
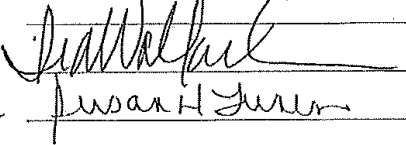
This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Please indicate the number of members who will sign this form.

This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

☐ by hand delivery on

Date

☐ by certified mail, return receipt requested, on

Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



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G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant